

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.5265 Common Taxable Year

TITLE 86: REVENUE

**PART 100
INCOME TAX**

SUBPART P: COMBINED RETURNS

Section 100.5265

Common Taxable Year

a) The common taxable year of a combined group shall be the taxable year of the designated agent. However, if a combined group has been using the taxable year of the member of the combined group that, as of the time the combined group becomes eligible to file a combined return, would be expected to have the greatest Illinois income tax liability on a recurring basis if it were not a member of a unitary business group, it may continue to do so for taxable years ending prior to January 1, 1999. The combined group must thereafter use the taxable year of the designated agent.

b) For taxable years ending on or after December 31, 1987, members of a combined group may have different taxable years. In the case of a member having a taxable year different from the common taxable year determined in subsection (a) above, the separate company taxable income of that member used in computing the combined net income of the combined group shall be determined using one of the following methods:

1) Method 1. The member may compute its pro-forma taxable income from its books and records for the common taxable year.

2) Method 2. The member may use pro-rated shares of its taxable income for its taxable years ending in and beginning in a common taxable year. This method may be used only if the combined return for a common taxable year may be timely filed (including automatic extensions) after the close of such member's taxable year which begins in the common taxable year for which the return is filed, and such combined return may not be filed until after the close of such member's taxable year. To illustrate:

Example 1: Corporation A is a calendar-year member of a combined group having a common taxable year ending July

31. If Corporation A uses the method described in this subsection (b)(2), its taxable income for the taxable year ending July 31, 1995 would be five-twelfths of its 1994 taxable income and seven-twelfths of its 1995 taxable income. Rather than using months to pro-rate its income, Corporation A may use the number of days in its taxable year or (in the case of a corporation using a 52/53 week taxable year) the number of weeks in the taxable year. The combined return for the common taxable year ending July 31, 1995, may not be filed until after December 31, 1995, the close of Corporation A's taxable year which begins during that common taxable year.

Example 2. Corporation B uses a taxable year ending October 31, and is a member of a combined group with a calendar common taxable year. Corporation B may not use the method described in this subsection (b)(2), because, in applying this method for calendar year 1995, Corporation B would have to include in its common taxable year income two-twelfths of its income for its taxable year ending October 31, 1996, and the group's 1995 return (including automatic extensions) would be due on October 15, 1996, before the close of Corporation B's taxable year.

3) Method 3. The separate company taxable income of such member for any taxable year ending in the common taxable year shall be included in combined net income of the combined group.

c) Consistency in use of method. Each taxpayer having a taxable year different from the common taxable year of its combined group may separately elect which of the methods listed in subsection (b) above it will use for the first combined return in which such taxpayer is a member the combined group. Once a member has used one of those methods for a combined return, that method shall be used for all subsequent combined returns of such group unless:

1) the change in method is disclosed in an attachment to the first combined return for which a different method is used;

2) the attachment shows, for each year in which the member changing its method has been a member of the combined group, including the year in which the new method will be used:

A) the net income of the combined group computed with such member using its former method;

B) the net income of the combined group computed with such member using the new method; and

C) the totals of such combined net incomes as computed using each method; and

3) any excess of the total amounts of combined net income computed using the new method over the total amounts computed using the old method must be added to (or any deficiency be subtracted from) the net income of the combined group for the year in which the new method is first used.

d) If the common taxable year of a combined group is changed, and the new common taxable year ends before the end of the former common taxable year during which the change occurs, all separate company items of each member of the combined group arising since the end of the last common taxable year before the change must be taken into account on the combined return filed for the first common taxable year after the change, and any separate company item reported on a combined return for a prior common year shall be excluded from the combined return filed for the first common taxable year after the change.

Example. Combined group ABC uses a common taxable year ending on December 31, the taxable year of all three corporations. Corporation D is the controlling corporation of ABC, but is not an eligible member because it has no taxable presence in Illinois. On January 1, 1998, Corporation D establishes a taxable presence in Illinois, and becomes the designated agent under Section 100.5220(d)(1)(B). The group is thereafter required to use Corporation D's taxable year, which ends on June 30. If Corporation A, B or C elects to use either Method 1 or Method 2, combined group ABCD's combined return for the common taxable year ending June 30, 1998 shall include the separate company items of that corporation only for the period from January 1, 1998 through June 30, 1998 as determined under the elected method. If one of the corporations elects to use Method 3, it must determine its separate company items for the period from January 1, 1998 through June 30, 1998 using either Method 1 or Method 2 and include such items in the combined return for combined group ABCD for the common taxable year ending June 30, 1998. The remainder of the corporation's income for its taxable year ending December 31, 1998 will then be included in the combined return for the common year ending June 30, 1999.

e) If the common taxable year of a combined group is changed, and the new common taxable year ends after the end of the former common taxable year during which the change occurs, the combined group must file a combined return for the period ending with the date the common

taxable year is changed and a combined return for the period from the date of change to the end of the new common taxable year.

Example. Combined group AB uses a common taxable year ending on June 30, the taxable year of Corporation A, the corporation which has the greatest Illinois income, rather than the October 31 taxable year of Corporation B, its designated agent. Under subsection (a), the combined group is required to change to an October 31 common taxable year as of January 1, 1999. The group must file a combined return for the short taxable year from June 30, 1998 through December 31, 1998 and a combined return for the common taxable year ending through October 31, 1999 which includes only the separate company items of the members arising after January 1, 1999. Each corporation may separately elect to use either Method 1 or Method 2 to determine its separate company items for each short taxable year.

f) Members entering and leaving a combined group. Regardless of which method under subsection (b) is used by a member with a taxable year other than the common taxable year:

1) in the case of a corporation becoming a member of a combined group after the beginning of the corporation's taxable year:

(A) if the corporation was not a member of another combined group immediately prior to the time it joins the combined group, the corporation shall file a separate return for the short taxable year ending on the day prior to the date it joins the combined group. The net income reported on that separate return shall be determined using the method elected by the corporation under subsection (b) for determining the portion of its separate taxable income to be included in the combined group's combined net income for the common taxable year in which the corporation becomes a member of the combined group. The separate return shall be due on the due date (including extensions) of the combined return of the combined group for the common taxable year in which the corporation becomes a member.

Example 1. Corporation A uses a calendar taxable year. On April 1, 1999, a member of unitary business group BCD acquires 51% of the stock of Corporation A, and Corporation A immediately becomes a member of the unitary business group. Group BCD has a common taxable year ending June 30, which remains the common taxable year of group ABCD. If Corporation A elects to use Method 1, it must report pro-

forma taxable income for the period from January 1 through March 31, 1999 on a separate return; include pro-forma taxable income for the period from April 1 through June 30, 1999 in the combined return of group ABCD for the common taxable year ending June 30, 1999; and include pro-forma taxable income for the period from July 1 through December 31, 1999 and for the period from January 1 through June 30, 2000 in the combined return of group ABCD for the common taxable year ending June 30, 2000. The separate return for the period ending March 31, 1999 will be due on the due date of group ABCD's combined return for June 30, 1999. If Corporation A elects to use Method 2, it must report its income for 1999 in the same manner, except that it will prorate its 1999 income among the four different periods in proportion to the length of each period. If Corporation A elects to use Method 3, Corporation A must use either Method 1 or Method 2 to determine its taxable income for its separate return for the period ending March 31, 1999, and will include the remainder of its 1999 income in the combined return for group ABCD for the common taxable year ending June 30, 2000.

(B) if the corporation was a member of another combined group immediately prior to the time it joins the new combined group, the corporation shall include in the combined net income of the new combined group for the common taxable year in which it becomes a member all of its separate company taxable income for its taxable year which was not included in the combined net income of the old combined group for the common taxable year of the old combined group during which the corporation joins the new combined group. The corporation must use either Method 1 or Method 2 to determine the separate company items to include in each combined return which includes the date it leaves the old combined group and joins the new combined group. Thereafter, if its taxable year is not the common taxable year of the new combined group, it may elect any of the three methods.

Example 2. Assume the same facts in Example 1 above except that Corporation A is a member of combined group XYZ prior to the date its stock was acquired by a member of combined group BCD. Corporation A must use either Method 1 or Method 2 to determine the portion of its 1999 separate company taxable income for the period from January 1 through March 31, 1999, which will be

included in the combined net income of group XYZ. If Corporation A was using either Method 1 or Method 2 while a member of group XYZ, it must use the same method for this purpose. Corporation A may then elect any of the three methods for use in computing the combined net income of group ABCD; provided, however, that Corporation A's separate company taxable income for the period from April 1 through December 31, 1999 shall be equal to its separate company taxable income for 1999 minus the amount of its separate company taxable income for January 1 through March 31, 1999 included in the combined net income of group XYZ.

2) in the case of a corporation which ceases to be a member of a combined group, no separate company taxable income of such member which has been included in the combined net income of the combined group on any combined return shall be included in net income on any separate company return or any combined return of another combined group.

(Source: Added at 22 Ill. Reg. 19033, effective October 1, 1998)